54 (10)

HELA (1954) Delhi

(twenty pages)

Closed
Sinha

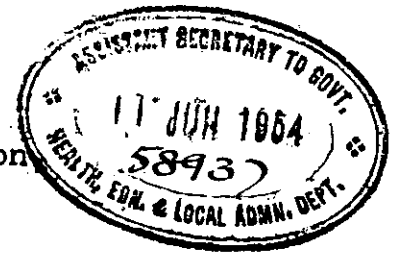
Memo no 58927 HF 1/4.3. Health

Dated 29-X-54

Town planning - Mangalore Municipality - Grant permission under section 17 of the town planning objections raised by Sri. Prabhakar Rai councillor - Remarks - Submission of

Rabhakar Rai, B.Com.: (Bom.)
MUNICIPAL COUNCILLOR.

KODIALGUTHU,
Mangalore-3, 9th June 195[illegible]



To

The Secretary to Government,
Health, Education & Local Adminstration
M A D R A S.

Sir,

Licences- grant of permission to construct buildings under Section 17 of T.P.Act and under Section 197 of Madras District Municipalities Act- Resolutions No. 3,8 and 11 D/24-12-53 pf the Town Planning Committee- irregularities reported.

The Town Planing Committtee Mangalore Municipality under the powers delegated to it by the Council in accordance with Rule 22 of Madras Town Planing Rules 1933 has decided to grant conditional permission under Section 17 of Town Planning Act in respect of buildings contravening the scheme provisions. It has been resolved in resolution No. 3 D/24-12-53 of the Town Planing Committee that certain unauthorised constructions which require to be pulled down at the time of opening a road in the site may be licenced provided that the party undertakes to demolish the same free of cost at a later date. In this connection, I am to submit that such a course of relaxing the scheme provisions to licence unauthorised constructions is not provided for in the Act. The resolution of the committee interfers with the carrying out of legitimate duties of the Executive Authority (as per insturction D.Dis 3948/48 D/6-1-49 of the Director of Town Planing) by virture of powers conferred upon him by the Act. It will be highly objectionable to allow the plots reserved for road purposes to be built up and permit the abuse of scheme provisions.

Furthrit is undesirable to grant such conditional permissions in the interests of Town Planing Administration. The Collector of South Kanara is bound to grant compensation under Section 35(3) of the T.P.Act for all improvements covered by

a permission under Section 17 of the Act. Hence it will be impracticable to compel the owners of land to demolish the buildings and surrender vancant possession of sites. It is therefore requested that the Govt.may be pleased to call for the connected papers relating to resolutions No.3, 8 and 11 dated 24-12-53. of the Town Planing Committee, Mangalore and pass such orders as may be found necessary in the matter.

Thanking you,

Yours faithfully,

Prabhaker Rai

PRABHAKER RAI.

Copy of letter dated 9th June 1954 from Prabhakar Rai, B.Com.(Bom.), Municipal Councillor, Kodialguthux to the Secretary to Govt., Health Education & Local Administration Dept., Madras.

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Licence - grant of permission to construct buildings under section 17 of T.P. Act and under section 197 of Madras District Municipalities Act - Resolutions No.3, 8 and 11 D/24-12-53 of the Town Planning Committee irregularities reported.

The Town Planning Committee Mangalore Municipality under the powers delegated to it by the Council in accordance with Rule 22 of Madras Town Planning Rules 1933 has decided to grant conditional permission under Section 13 of Town Planning Act in respect of buildings contravening the scheme provisions. It has been resolved in resolution No.3 D/24-12-53 of the Town Planning Committee that certain unatuthorised constructions which require to be pulled down at the time of opening a road in the site may be licenced provided that the party undertakes to demolish the same free of cost at a later date. In this xxxxxxxxxxxxxxxxxxx connection, I am to submit that such a course of relaxing the scheme provisions to licence unauthorised constructions is not provided for in the Act. The resolution of the committee interferes with the carrying out of legitimate duites of the Executive Authority (as per instruction D.Dis.3948/48 D/6-1-49 of the Director of Town Planning) by virture of powers conferred upon him by the Act. It will be highly objectionable to allow the plots reserved for road purposes to be built up and permit the abuse of scheme provisions.

Not in file

Further it is undesirable to grant such conditional permissions in the interests of Town xx planning adminstration. The Collector of South Kanara is bound to grant compensation under section 35(3 of the T.P. Act for all improvements covered by

pto

2

a permission under Section 17 of the Act. Hence it will be impracticable to ~~xxxxxx~~ compel the owners of land to demolish the buildings and surrender vacant possession of sites It is therefore requested that the Govt. may be pleased to call for the connected papers relating to resolutions No.3 8 and 11 dated 24-12-53. of the Town Planning Committee, Mangalore and pass such orders as may be found necessary in the matter.

Thanking you,

Yours faithfully,

Sd. xx xx
(PRABHAKER RAI).

--

ORN:24/9. /TRUE COPY/-

3. HECA

HD

58937/54

Sub Licences. Mangalore mply.

Grant of permission to Construct buildings unde Sec 17 of the MTP Act and section 197 of the MDM Act. Resolutions of the T.P. Committee. Irregularities — Representations against the

×

Ref: from Sri Prabhakar Rai, Mt. Councillor, petition dt 9/5

×

Memo 58937 HD/54-1-Health dt 15/6/54

Referred to the D.T.P. for urgent remarks.

15/6/54

To the D.T.P.

(with [illegible] regarding the [illegible] reply

146 1/2
25-8

5 HECA

58937/54 Sub. Licences - Mangalore Municipality
Grant of permission to construct buildings under sec 17 of the M.T.P. Act and sec 197 of the MDM Act. Resolution of the T.P Committee Irregularities.

— —x— —

P34 Ref. Govt Memo no. 58937 HF/54.1. Health dt 15/6/54

Memo 58937 HF/54.2 Health dt 25/8/54

8/25/8 one M.P is requested to indicate the stage in which the matter now is and the date by which his final reply may be expected

To the D.T.A

8/8/54 23/8/54 24/8/54

From
Sri J. Sivanandam, I.A.S.,
Director of Town Planning,
Old High Court Buildings,
1st Line Beach, Madras-1.

To
The Secretary to Government,
Health, Education and Local
Administration Department,
Fort St. George, Madras-9.

Rc.5976/A1/54 Dated 6-9-54.

Sir,

Sub:- Licences - Mangalore Municipality - Grant of permission to construct buildings under Section 17 of the Madras Town Planning Act and Section 197 of the Madras District Municipalities Act - Resolution of the Town Planning Committee - Irregularities - Interim reply - Submitted.

Ref:- Government Memo.No.58937-HV/54-2, Health dated 25-8-54.

The matter is under correspondence with the Commissioner, Mangalore Municipality and a final reply will be submitted to Government on receipt of a reply from the Commissioner.

ORN:6/9.

DIRECTOR OF TOWN PLANNING.

P.T.O.

8

58937/54

HELA
Hr

The D.T.P. maybe
reminded again, if necessary
on 8/10/54

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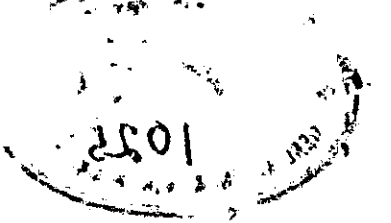
13/9/54
TOP
13.9.54

4.9
1.4.34



175

9

From
Sri J. Sivanandam, M.A.S.,
Director of Town Planning,
Old High Court Buildings,
1st Line Beach, Madras.1.

To
The Secretary to Govt.
Health, Education and Local
Administration Department,
Fort St. George, Madras.9.

Rc.5976/54-A1 Dated 24-9-54.

Sir,

Sub:- Town Planning - Mangalore Municipality - Grant of permission under section 17 of the Town Planning Act - objections raised by Sri Prabhakar Rai, Municipal Councillor - Remarks - Submission of.

Ref:- (1) Government Memo.No.58937-HV/54-1, Health dated 15-6-54.
(2) Letter No.21418/54 dated 7th August 54 of the Commissioner, Mangalore Municipality.

ASSISTANT SECRETARY TO GOVERNMENT
26 SEP 1954
HEALTH, EDUCATIONAL & LOCAL ADMN. DEPT.

One Sri Prabhakar Rai Councillor of the Mangalore Municipality has brought to the notice of the Government that the Town Planning Committee of Mangalore has allowed certain unauthorised constructions under section 17 of the Town Planning Act eventhough the buildings would be a hindrance to the formation of scheme roads.

The Commissioner, Mangalore Municipality has offered his remarks in his letter Rc.E1-21418/54 dated 7th August 54, a copy of it is enclosed herewith for the kind perusal of the Government. The Chairman in his forwarding note dated 12-8-54 has observed that there is no prohibition in issuing conditional permissions as have been done by the Town Planning Committee and such licence is not granted as a rule but only in exceptional cases.

The kind attention of the Government is invited to the G.O.Ms.No.1765, E & P.H. dated 14-6-46 in this connection wherein the Government have instructed the Municipal Authorities not to issue conditional licences as it would lead to administrative difficulties later on.

Though the observations of the Chairman is legally correct, the Department considers that issue of such conditional permissions would stand as a bad precedent and it will be very difficult for the Municipal Council to refuse permission for similar cases elsewhere. In the interest of proper developments in scheme areas and to avoid complications that may arise later on by issuing such conditional permissions, the Municipal Council should decline to grant such conditional permissions.

The Government may therefore advise the Municipal Council to get the resolutions of the Town Planning Committee No.3 and 11 revised suitably and to see that construction or reconstruction of buildings in the notified scheme areas are allowed only in accordance with the provisions of schemes.

ORN:24/9

DIRECTOR OF TOWN PLANNING.

Encls:- (1) Letter of Sri Prabhakar Rai dated 9th June 54.
(2) Copy of letter Rc.E1-21418/54 dated 7-8-54.
(3) Municipal file E1-20202/53 of 38 pages.
(4) -do- E1-13236/53 of 68 pages.
(5) -do- E2.20690/53 of 56 pages.

Copy of letter M1.21418/54 dated 7th August 1954 from the Commissioner Mangalore Municipality, to the Director of Town Planning, Madras.

Sub:- Town Planning - Mangalore Municipality - Grant of permission under section 17 of the Town Planning Act - Objections raised by Sri Prabhakar Rai, Municipal Councillor - remarks submitted.

Ref:- Your letter No.A1/5976/1954 dated 25th June 1954.

The objections raised by Sri Prabhakar Rai, Municipal Councillor are in respect of T.P. Resolution Nos.3, 8 and 11 dated 24th December 1953. The detailed remarks regarding the three cases are furnished herebalow item-war.

Town Planning Committee Resolution No.3.

In their application dated the 9th October 1953 Sri Mizar Govinda Annappa Pai & Sons requested permission to construct factory buildings in site T.S.No.1205/H of 8th ward. It was observed that all the constructions except denoted as "A" in the plan are objectionable in view of the reservation of lands for opening new roads MM and II in Kodialbail West Ward T.P. area. While the matter was placed before Town Planning Committee for refusal of permission under section 17 of T.P.Act it was resolved by the Town Planning committee that licence for the addition to the buildings marked "C" is granted subject to the condition that both the lessor and the lessee executes a bond undertaking to remove the building without claiming any compensation when the road proposal materialises. The resolution of the Committee appears to be against the spirit of G.O. Ms.No.1765 dated 14-6-1946 declaring that though there is no objection to a municipal council (or a T.P. Committee delegated with the powers of disposal of applications under section 17 of the Act) attaching conditions to a permission granted under section 17 it is undesirable to grant such conditional permissions as they will lead to administrative difficulties later.

T.P. Committee resolution No.8.

In the application dated the 9th July 1954 Sri K. Govinda Shenoy, applied for the construction of additions and reconstruction of burt portion of building in T.S.No.57/1A of I ward. The plot is included in Bolur Town Planning area and no scheme provisions are affected. The Town Planning officer in charge in his report dated the 16the September 1953 observed that certain provisions of the District Municipalities Act are violated and accordingly recommended refusal of permission under section 203(1)and (2) of the Dt. Municipalities Act. The Town Planning Committee in its resolution No.8 resolved that licence could be granted provided a road approach sufficient bath-rooms and latrine and proper ventilators are provided. This resolution has since been reconsidered and in accordance with Town Planning Committee Resolution No.16 dated the 15th July 1954 licence is refused as the party has not provided any road approach and has violated the provisions of the D.T.Act. In the light of the present decision of the Town Planning Committee final orders on the licence application are being communicated to the party.

Town Planning Committee resolution No.11.

In her application dated 19th October 1953 srimathi N. Puthamma applied for permission to construct additions to building in T.S.No.110/1 of 19th ward. The plot is included in Railway and Nandigudda oad Town Planning Scheme. It was observed that the constructions in respect of which permission is applied for, falls within the alignment of new road "FF" proposed to be opened in the area. The Town Planning committee in its resolution No.11 dated 24th Decr. 1953 resolved to grant licence to the party subject to the condition that the owner gives a bond agreeing to demolish the said building without compensation when the road proposal is taken

12

Though there is no legal impediment in granting such conditional licence such a course will give rise to complicated administrative difficulties as declared by the Government in G.O.Ms.No.1765 dated 14th June 1946.

The file of papers E1/20202/51, E1/xx 13236/53 and E2/20690/53 are submitted herewith for favour of perusal and return when done with.

/ TRUE COPY /

Forwarded

There is no prohibition against granting a licence with a x condition as in the aforesaid cases. The Committee has power to do it. This conditional licence is not granted as a rule. It is granted only in certain exceptional cases.

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Sd xx xx
Chairman, M.C.

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ORN:24/9. /TRUE COPY/-

Draft I 13/HELA
HD

2 drafts

Sub: Town Planning —
Mangalore Municipality -
Grant of permission under
Sec 17 g. The T. P. Act -
Objections raised by Sri
Prabhakar Rai, Ml councillor
against the

—— x ——

pp 1-2 cf Ref: From Sri Prabhakar Rai,
Ml councillor, Mangalore,
petition, dt 9.6.54

p 9 cf From the D.T.P. Re 5976/54/A1,
dt 24/9/54.

—— x ——

Memo 58937 HD/54.3.Health dt 29/X/54

Dft 29/10 pp 1-2 cf Sri Prabhakar Rai,
a Ml councillor, Mangalore has
brought to the notice of the
Govt. that the Town Planning
pp 1-2 cf Committee of the Mangalore
Ml cl under Sec 17 of the T.P Act
has allowed certain
unauthorised constructions
subject to certain conditions
to continue being fulfilled
eventhough they would
definitely interfering with the proposed
works to be carried out
under the T. P. schemes.

Vide p 3 cf & pp 9-12 cf The matter was examined by the Govt
in consultation with the D.T.P.
and the Ml Commr, Mangalore

pp 1-2 cf It is observed that, as has
been represented to the Govt, the

D.T.P

14/

of the cl

T.P. Committee has allowed certain constructions to continue although they should not ordinarily be permitted in the interests of proper developments in T.P. Scheme areas. Although the action of the T.P. Committee in granting conditional permissions in such cases is legally justifiable yet it is considered that it is not desirable to grant such conditional permissions especially in view of the fact that when once a bad precedent is set up by grant of such conditional permissions, the demand from the public for grant of permissions on the same analogy, will become irresistable. The result will be that the council will have to face greater administrative difficulties/

Vide P 40/54

2. The Ml Commr, Mangalore is, therefore, requested to advise the ml cl to get the resolutions of the T.P Committee nos 3 + 11 revised suitably and to see that the construction or reconstruction of buildings in notified scheme areas are allowed only in accordance with the provisions of the Schemes.

27/10/54

27-10-54

28/10/54

29/10/54

ml w cl-1

CENTRAL DESPATCH BRANCH
Despatched by Regd. Post/Messenger. Date 4/11/1954.

The Commr
Van.
Mangalore
(thro the CMC)
(with enclosure Dy. RP)

" Sri Prabhakar Rai
Ml. Councillor
Mangalore

58937/54 Order

IS HELA 1

Sub:- Town Planning - Mangalore Mpty. Grant of permission under Sec 17 of the T.P. Act. Objections against certain proceedings of the T.P. Committee

—x—

Ref:- Govt Memo No. 58937 HD/54.1. Health dt 15.6.54.

—x—

Memo 58937 HD/54.4. Health dt 29/54

The DTP is requested to return the original of the petition dt 9.6.54 from Sri Prabhakar Rai. M Councillor, Mangalore

DTP

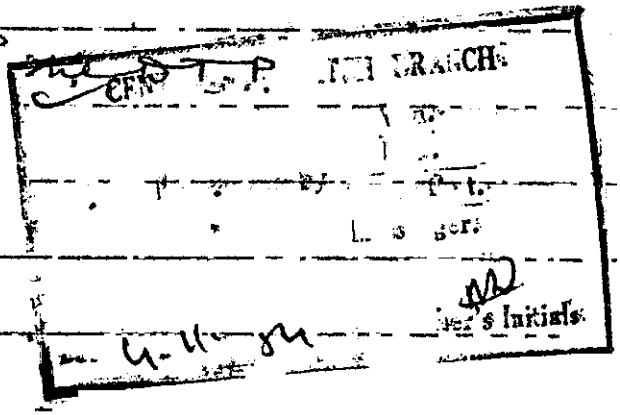
DF 29/10 received from DTP (enclosed)

sent to him for remarks with the memo cited.

D
16/5h
NRP
27.10.54

4h 28/10/54

Jo



SA
29/10/54

Ow. Draft I on ftn 1-2 ante follows the D.T.P's recommendations on pg 4 & may be approved.

2. The file may be closed after the receipt of the D.T.P's reply w.r.t the ow on ftn 3-4 above.

4h 28/10/54 SA 29/10/54 JS.

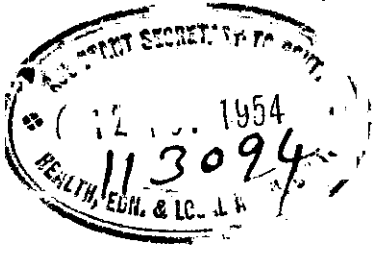
D
17/10/54
NRP
27.10.54

From
Sri J. Sivanandam, I.A.S.,
Director of Town Planning,
Old High Court Buildings,
1st Line Beach, Madras.1.

To
The Secretary to Government,
Health, Education and Local
Adminstration Department,
Fort St. George, Madras.9.

Rc.5976/54 Dated 10-11-54.

Sir,



Sub:- Town Plann'ng - Mangalore Municipality - Grant of permission under section 17 of the Town Planning Act - Objection raised by Sri Prabhakar Rai, Municipal Councillor - Remarks - Submitted - Orders passed if any.

Ref:- This office Rc.5976/54-A1 dated 24-9-54.

I request early orders of the Government in the matter.

10/11/54

1/2 FOR DIRECTOR OF TOWN PLANNING.

ORN:10/11.

P.T.O.

18

589.37

HELA

HT

Orders have already been issued in the matter — vide om on pages 13, 14 ante.

The file will be closed after the receipt of the UTP's reply with ref to the om. on pp 15-16 ante (Vide orders on p 16 ante)

13/11/54

NRP

13.11.54

15/11/54

2r*

58937/54

HELA

HT

The papers may now be

~~Just Sanjay~~ (as Memo no 58937 HT/54-3 dt 29.x.54 Health)

22/11/54

23/11/54

19

From
Sri J. Sivanandam, I.A.S.,
Director of Town Planning,
Old High Court Buildings,
1st Line Beach, Madras-1.

To
The Secretary to Government,
Health, Education and Local
Administration Department,
Fort St. George, Madras-9.

Rc.5976/54-A1 Dated 15-11-54.

Sir,

Sub:- Town Planning - Mangalore Municipality - Grant of permission under section 17 of the Town Planning Act Petition of Sri Prabhaker Rai, Municipal Councillor - Resubmission of.

Ref:- Government Memo.No.58937-HV-4, Health dated 29-10-54.

The petition dated 9-6-54 of Sri Prabhaker Rai, Municipal Councillor of Mangalore is resubmitted herewith.

FOR DIRECTOR OF TOWN PLANNING.

ORN:15-11.

P.T.O.

L.no.5216/54

DIRECTOR OF TOWN-PLANNING
11 MAY 1955
5709
MADRAS-6

E4.21416/54. Municipal Office, Mangalore,
D/ 2nd May 1955.

From

Sri A.K.Raghavan,B.A.,B.L.,
Commissioner,Mangalore Municipality.

The Secretary to Government,
Health,Education & Local Administration Department
Fort St.George,Madras

Thro'

The Director of Town Planning,
M a d r a s, &
The Chairman,Municipal Council,Mangalore.

Sir,

Sub:-License - Grant of permission to construct buildings under Section 17 of the Town Planning Act and under Section 197 of the Madras District Municipalities Act - Resolutions Nos 3, 8 & 11, dated the 24th Decr.1953 of the Town Planning Committee - irregularities - Government order - resolution of the council - submitted - instructions requested.

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(2)/13-14 A

Ref.Government Memo No.58936 H V / 54- 3, Health, dated 29- 10- 1954.

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(2)/App/13-14

The Government Memorandum No. 58937 HV/54-3, Health dated 29th October 1954 was placed before the Town Planning committee with a note to modify its resolution Nos 3 and 11, dated the 24th Decr.53, granting conditional license under section 17 of the T.P.Act. The Town Planning committee its resolution No. 7 dated the 16th Decr.1954 (copy enclosed) has resolved that as there is no total prohibition against granting conditional permission under rule 17 of the T.P.Act and as it will be quite in order to grant conditional permission in exceptional cases,the committee has been in proper cases, exercising its discretion and granting conditional licenses although such instances are very few. In the two instances under reference in the case of the application of Sri Govinda Shenoy the permission has been finally refused as the party has failed to comply with the conditions stipulated Regarding the other instance Viz application of Sri Govinda Shenoy Pai conditional permission was granted as the structures proposed are temporary sheds and there is no prospect of the proposed road coming there in the near future

The council in its resolution No.228 dated the 12th February 1955 has accepted the resolution of the Town Planning committee and resolved that Government may be addressed accordingly (copy enclosed) Under the present provisions of the T.P.Act the resolution of the Town Planning committee and council appears to be in order.

Commissioner, M.M.

Forwarded.

Chairman, M.C.
h-4.5

compd.
Encl.

Extract from the proceedings of the Mangalore Municipal council, dated the 12th February 1955.

****

E4-21418/1954. Town Planning - Mangalore Municipality - Grant of conditional permissions under section 17 of the Town Planning Act - Objections raised by Sri Prabhakar Rai, Municipal councillor - regarding.

2)/13-14 1. Government Memorandum No. 58937 HV/54-2, Health, dated the 29th October 1954 requesting the Commissioner to advise the council to get the resolutions of the Town Planning committee Nos 3 and 11 revised suitably and to see that the construction or reconstruction of buildings in notified scheme areas are allowed only in accordance with the provisions of the schemes.

2. Town Planning committee resolution No.7 dated the 16th Decr.1954 that as there is no total prohibition against granting conditional permission under rule 17 of the T.P. Act and as it will be quite in order to grant conditional permissions in exceptional cases the committee has been in proper cases exercising its descretion and granting conditional licenses although such instances are very few.

Office note. Government wants that the resolutions of the Town Planning committee No 3 & 11 may be revised suitably.

COUNCIL RESOLUTION No.228 dated the 12TH FEBRUARY 1955.

THE RESOLUTION OF THE TOWN PLANNING COMMITTEE IS ACCEPTED AND THE GOVERNMENT MAY BE ADDRESSED ACCORDINGLY.

X X X

(sd) K.S.N.Adiga,
Chairman,M.C.

(True copy)

Municipal Office, Mangalore,
Dated the 2nd MAY 1955.

COMMISSIONER

COMPD.

H/4-5

From
Sri J.Sivanandam I.A.S.,
Director of Town Planning,
Old High Court Buildings,
Ist Line Beach, MADRAS.1.

To
The Secretary to Government,
Health, Education and Local
Administration Department,
Fort St.George, MADRAS.9.

Rc.5976/54-A1 dated 6-9-55.

6 SEP 1955

Sir,

Sub: License-Grant of permission to construct buildings under section 17 of the Town Planning Act and under section 197 of the Madras District Municipalities Act-Resolutions Nos. 3, 8 and 11, dated 24-12-53 of the Town Planning Committee-instructions-request of.

(2) 13-14 20745 to above

Ref: Government Memo.No.58936 H.V/54-3 Health dated 29-10-54.
From the Commissioner letter E4.21418/54 dated 2-5-55

The letter of the Commissioner, cited above is forwarded herewith with the following remarks:

(2) 13-14 A1

It would appear that the Mangalore Municipal Council is resolved to stick to its ~~xxxx~~ previous resolution granting a conditional permission, in spite of the advise tendered by the Government in Memo.No.58936/HV/54-3 Health dated 29-10-54 and has desired to inform the Government accordingly. In the circumstances the letter of the Commissioner may be recorded by the Government. No further action seems called for.

7-9-55

FOR DIRECTOR OF TOWN PLANNING.

vrk/5.9. 6955

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9TT :

H.ELA

(21)

The letters received from the Commr. Mangalore Mpality and the D T.P on pp 1 - 5 above may be perused No action is called for. May be filed with Memo no: 58937 H V/57.3 Hqrs dtd 29.X.57

(21)

8/11/57

12.11.57

15/11/57

21.11.57

DTP 2 16/11/57